

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

 BETTY ANNE WATERS, as
 Administratrix of the Estate of
 KENNETH WATERS,

Plaintiff,

v.

TOWN OF AYER, et al.,
 Defendants.

Case No. 04 10521 (GAO) (JGD)

PLAINTIFF'S PROPOSED SECOND REQUEST FOR ADMISSION

Plaintiff Betty Anne Waters, by counsel, pursuant to Rule 36 of the Federal Rules of Civil Procedure, hereby serves the following request for admission upon defendants. The requested admissions shall be deemed admitted unless, within 30 days of service, you serve a signed, written answer or objection. If you object, you must indicate all the reasons for your objection. Your answer shall admit, specifically deny the matter, or set forth in detail all the reasons why you cannot truthfully admit or deny the matter. When good faith requires that you qualify an answer or deny only a part of the matter of which an admission is requested, you shall admit so much of it as is true and qualify or deny the remainder. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you have made reasonable inquiry and the information known or readily obtainable by you is insufficient to enable you to admit or deny. In that event, you must describe the full extent of your inquiry. You may not object to a request on the grounds that you believe it presents a genuine issue for trial. In the event that you fail to admit a matter without reasonable grounds, plaintiff reserves

the right to petition the court to deem the matter admitted and seek reimbursement of expenses incurred in connection with the motion.

REQUESTS TO ADMIT

1. On May 21, 1980, Katharina Brow sustained approximately thirty stab wounds to her body.¹

RESPONSE:

2. On May 21, 1980, blood was found in the front bedroom, the hallway between the kitchen and the front bedroom, the kitchen, the dining area, and the living room of Brow's home.²

RESPONSE:

3. On May 21, 1980, State Police Detective Lieutenant John Dwyer reported that the blood and furniture strewn about indicated that there was a struggle between the perpetrator and Katharina Brown before her murder.³

RESPONSE:

4. On May 21, 1980 State Police Corporal John Baliunas lifted five latent fingerprints from the crime scene.⁴

RESPONSE:

5. On May 21, 1980, State Police Chemist Kathleen Higgins collected hair and blood samples

¹ See Ex. A, Autopsy Report, Document Nos. AG000157-63.

² See Ex. B, State Police Forensic Report Dated July 28, 1980, Document Nos. B000231-42.

³ See Ex. C, Correspondence from Dwyer to O'Donovan Dated May 21, 1980, Document Nos. AG000150-52.

⁴ See Ex. D, Photography & Fingerprint Section Report Dated May 21, 1980.

from the crime scene.⁵

RESPONSE:

6. Three hairs of unknown origin, including one found in Katharina Brow's left hand and one found on the bloody knife, were collected from the crime scene.⁶

RESPONSE:

7. The three hairs of unknown origin found at the crime scene were microscopically inconsistent with Kenneth Waters' hair samples.⁷

RESPONSE:

8. Katharina Brow had ABO Type B-positive blood.⁸

RESPONSE:

9. The blood at the crime scene was Type B-positive and Type O.⁹

RESPONSE:

10. The blood sample taken from the floor of the entrance to the back left bedroom (item #2) was Type O.¹⁰

RESPONSE:

⁵ See Ex. E, Ayer Police Department Report Dated June 2, 1980, Document No. B000010-12.

⁶ See Ex. B.

⁷ See Ex. F, FBI Laboratory Report Dated Feb. 9, 1983, Document Nos. IP00025-26

⁸ See Ex. G, State Police Report Dated April 17, 1981, Document Nos. IP00021-22.

⁹ See *id.*

¹⁰ See *id.*

11. The blood sample taken from the fibers of the bathroom rug (item #3) was Type O.¹¹

RESPONSE:

12. The blood sample taken from the front of the left closet in the middle bedroom (item #4) was Type O.¹²

RESPONSE:

13. The blood sample taken from the light green terrycloth (item #10A) was Type O.¹³

RESPONSE:

14. The blood sample taken from the white cotton cloth (item #10B) was Type O.¹⁴

RESPONSE:

15. The blood sample taken from the pink, gold, white floral cotton cloth (item #10D) was Type O.¹⁵

RESPONSE:

16. The blood sample taken from the pink cotton cloth (item #10E) was Type O.¹⁶

RESPONSE:

17. The blood sample taken from the white cotton cloth with multi-color floral print (item #10F)

¹¹ *See id.*

¹² *See id.*

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ *See id.*

was Type O.¹⁷

RESPONSE:

18. The blood sample taken from the carpeting in the living room (item #21) was Type O.¹⁸

RESPONSE:

19. The blood sample taken from the curtain from the front door window (item #22) was Type O.¹⁹

RESPONSE:

20. The blood sample taken from the inside of the front door (item #23) was Type O.²⁰

RESPONSE:

21. State Police Detective Lieutenant John Dwyer reported that the perpetrator of Katharina Brow's murder had Type O blood.²¹

RESPONSE:

22. Ayer Police Department Chief William Adamson reported that the perpetrator of Katharina Brow's murder had Type O blood.²²

RESPONSE:

23. The perpetrator of Katharina Brow's murder had Type O blood.

¹⁷ *See id.*

¹⁸ *See id.*

¹⁹ *See id.*

²⁰ *See id.*

²¹ *See Ex. C.*

²² *See Ex. D.*

RESPONSE:

24. On May 21, 1980, State Police Detective Lieutenant John Dwyer reported that the perpetrator was injured and bled at the crime scene.²³

RESPONSE:

25. On June 2, 1980, Ayer Police Department Chief William Adamson reported that the perpetrator was injured and bled at the crime scene.²⁴

RESPONSE:

26. Ayer Police Department Chief William Adamson and State Police Detective Lieutenant John Dwyer searched for Katharina Brow's murderer by checking surrounding hospitals for injuries sustained with a knife or other objects.²⁵

RESPONSE:

27. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported that Kenneth Waters was excluded as the source of the Type O blood from the bathroom rug #3.²⁶

RESPONSE:

28. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported that Kenneth Waters was excluded as the source of the Type O blood from the light green terry

²³ See Ex. C.

²⁴ See Ex. D.

²⁵ See Ex. C; Ex. H, Request for New England Broadcast Dated June 9, 1980, Document No. B000068.

²⁶ See Ex. I, Forensic Science Associates Report Dated Feb. 27, 2001 at 8, Document No. IP00236.

cloth #10A.²⁷

RESPONSE:

29. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported that Kenneth Waters was excluded as the source of the Type O blood from the white cotton cloth #10B.1.²⁸

RESPONSE:

30. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported that Kenneth Waters was excluded as the source of the ABO Type O blood from the white cotton cloth #10B.2.²⁹

RESPONSE:

31. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported that Kenneth Waters was excluded as the source of the ABO Type O blood from the pink, gold, white floral cotton cloth #10D.³⁰

RESPONSE:

32. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported that Kenneth Waters was excluded as the source of the ABO Type O blood from the pink cotton cloth #10E.³¹

²⁷ *See id.*

²⁸ *See id.*

²⁹ *See id.*

³⁰ *See id.*

³¹ *See id.*

RESPONSE:

33. On February 27, 2001, Dr. Edward Blake of Forensic Science Associates reported Kenneth Waters was excluded as the source of the ABO Type O blood from the white cotton cloth with multi-colored floral print #10F.³²

RESPONSE:

34. The Type O blood found in Katharina Brow's home on May 21, 1980 was not Kenneth Waters' blood.

RESPONSE:

Dated: February 15, 2007
New York, NY

PLAINTIFF BETTY ANNE WATERS

By: /s/ Deborah L. Cornwall
Deborah L. Cornwall, Esq. (DC 2186)
Barry C. Scheck, Esq. (BS 4612)
Monica R. Shah, Esq. (MS 9846)
COCHRAN NEUFELD & SCHECK, LLP
99 Hudson Street, 8th Floor
New York, NY 10013

Robert N. Feldman
BIRNBAUM & GODKIN, LLP
280 Summer Street
Boston, MA 02210-1108

³² See *id.*